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DOC #:  
DATE FILED: 1/29/09

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
BARBARA LEVENBERG,

Plaintiff,

05 CIVIL 6012 (RPP)

-against-

**JUDGMENT**

AMERICAN REAL ESTATE PARTNERS, L.P.,  
AMERICAN REAL ESTATE HOLDINGS, L.P.,  
JOHN SALDARELLI & HENRY J. GERARD,  
Defendants.

-----X

The issues in the above-entitled action having been brought on for trial before the Honorable Robert P. Patterson, United States District Judge, and a jury on January 20, 2009, and at the conclusion of the trial on January 26, 2009, the jury having returned a verdict in favor of the defendants, it is,

**ORDERED, ADJUDGED AND DECREED:** That the Complaint be and it is hereby dismissed.

**DATED:** New York, New York  
January 28, 2009

**SO ORDERED**




USDJ

**J. MICHAEL McMAHON**

Clerk of Court

BY:

  
Deputy Clerk

**THIS DOCUMENT WAS ENTERED  
ON THE DOCKET ON \_\_\_\_\_**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Barbara Levenberg, Plaintiff

- against -  
American Real Estate Partners, L.P.  
American Real Estate Holdings, L.P.  
Employed, John Saldarelli & Henry J. Menard

EXTRACT OF THE MINUTES

05 CV 6012 (RPP)

TYPE OF TRIAL:  
JURY        BENCH       

(List full case caption-if necessary use other side)

APPEARANCES:

(if necessary use other side-include firm name and telephone #)

PLAINTIFF:

Edward H. Wolf, Esq.

Wolf & Wolf, LLP

910 Grand Concourse, Ste 1F

Bronx, N.Y. 10451

T (718) 410-0653

F (718) 588-8035

DEFENDANT(S):

David W. Harland, Esq.

Sills Cummins & Gross, P.C.

One Rockefeller Plaza

N.Y. N.Y. 10020

T (973) 643-6390

F (973) 643-6500

1/20/09 Jury panel summoned & sworn. Selection begins & concludes.  
Trial continues. 1/21/09 Trial continues. 1/22/09 Trial continues.  
1/23/09 Trial continues. Trial continues on 1/26/09 and concludes with  
verdict in favor of the defendants (see attached verdict sheet)

DEPUTY CLERK-

R. Montenegro

COURT REPORTER-

K. Sellin, P. Apier, K. Caravante

ORIGINAL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

BARBARA LEVENBERG,

Plaintiff,

-against-

AMERICAN REAL ESTATE PARTNERS, L.P.,  
AMERICAN REAL ESTATE HOLDINGS, L.P.,  
["Company"] JOHN SALDARELLI & HENRY  
J. GERARD,

Defendants.

ECF Case

Civil Action No. 05-CV-6012 (RPP)

**SPECIAL INTERROGATORIES**

As to the parties named above, the jury unanimously finds the issues as follows:

1. With respect to Plaintiff's claims of discrimination based on AGE, has the Plaintiff proven by a preponderance of the evidence that she suffered an adverse action, motivated in part by her age, by a Defendant who:

- a. intentionally discriminated against her in salary determinations?

- i. The Company

YES \_\_\_\_\_

NO X

- ii. John Saldarelli

YES \_\_\_\_\_

NO X

- iii. Henry Gerard

YES \_\_\_\_\_

NO X

- b. intentionally discriminated against her as to material terms and conditions of her employment?

- i. The Company

YES \_\_\_\_\_

NO X

- ii. John Saldarelli

YES \_\_\_\_\_ NO X \_\_\_\_\_

iii. Henry Gerard

YES \_\_\_\_\_ NO X \_\_\_\_\_

c. intentionally discriminated against her in terminating her?

i. The Company

YES \_\_\_\_\_ NO X \_\_\_\_\_

ii. John Saldarelli

YES \_\_\_\_\_ NO X \_\_\_\_\_

iii. Henry Gerard

YES \_\_\_\_\_ NO X \_\_\_\_\_

*If your answer to all parts of Question 1 is "No," please go onto Question 3. If your answer to any part of Question 1 is "Yes," go on to Question 2.*

2. Do you find that Plaintiff has proven by the preponderance of the evidence that she suffered damages as a result of discrimination motivated in part by her age?

YES \_\_\_\_\_ NO \_\_\_\_\_

a. If your answer is YES, what amount of money is fair and reasonable to compensate Plaintiff for Defendants' discrimination motivated in part by her age?

i. The Company

Lost wages \$ \_\_\_\_\_

ii. John Saldarelli

Lost wages \$ \_\_\_\_\_

iii. Henry Gerard

Lost wages \$ \_\_\_\_\_

3. With respect to Plaintiff's claims for discrimination based on GENDER, has the Plaintiff proven by a preponderance of the evidence that she suffered an adverse action, motivated in part by her gender, by a Defendant who:

- a. intentionally discriminated against her in salary determinations?

- i. The Company

YES \_\_\_\_\_

NO X

- ii. John Saldarelli

YES \_\_\_\_\_

NO X

- iii. Henry Gerard

YES \_\_\_\_\_

NO X

- b. intentionally discriminated against her as to material terms and conditions of her employment?

- i. The Company

YES \_\_\_\_\_

NO X

- ii. John Saldarelli

YES \_\_\_\_\_

NO X

- iii. Henry Gerard

YES \_\_\_\_\_

NO X

- c. intentionally discriminated against her in terminating her?

- i. The Company

YES \_\_\_\_\_

NO X

- ii. John Saldarelli

YES \_\_\_\_\_

NO X

- iii. Henry Gerard

YES \_\_\_\_\_

NO X

*If your answer to all parts of Question 3 is "No," please go onto Question 5. If your answer to any part of Question 3 is "Yes," go on to Question 4.*

4. Do you find that Plaintiff has proven by the preponderance of the evidence that she suffered damages as a result of discrimination motivated in part by her gender?

YES \_\_\_\_\_ NO \_\_\_\_\_

- a. If your answer is YES, what amount of money is fair and reasonable to compensate Plaintiff for Defendants' discrimination motivated in part by her gender?

i. The Company

Lost wages \$ \_\_\_\_\_

Other compensatory damages \$ \_\_\_\_\_

**TOTAL** \_\_\_\_\_

ii. John Saldarelli

Lost wages \_\_\_\_\_

Other compensatory damages \_\_\_\_\_

**TOTAL** \_\_\_\_\_

iii. Henry Gerard

Lost wages \_\_\_\_\_

Other compensatory damages \_\_\_\_\_

**TOTAL** \_\_\_\_\_

5. With respect to Plaintiff's claims based on RETALIATION, has the Plaintiff proven that because she engaged in a protected activity, a Defendant intentionally retaliated against her:

- a. concerning salary determinations?

i. The Company

YES \_\_\_\_\_ NO X

ii. John Saldarelli

YES \_\_\_\_\_

NO X

iii. Henry Gerard

YES \_\_\_\_\_

NO X

b. concerning material terms and conditions of employment?

i. The Company

YES \_\_\_\_\_

NO X

ii. John Saldarelli

YES \_\_\_\_\_

NO X

iii. Henry Gerard

YES \_\_\_\_\_

NO X

c. concerning her termination?

i. The Company

YES \_\_\_\_\_

NO X

ii. John Saldarelli

YES \_\_\_\_\_

NO X

iii. Henry Gerard

YES \_\_\_\_\_

NO X

*If your answer to all parts of Question 5 is "No," please sign and date this form and tell the marshal you have reached a verdict. If your answer to any part of Question 5 is "Yes," go on to Question 6.*

6. Do you find that Plaintiff has proven by the preponderance of the evidence that she suffered damages as a result of RETALIATION?

YES \_\_\_\_\_

NO \_\_\_\_\_

a. If your answer is YES, what amount of money is fair and reasonable to compensate Plaintiff for Defendants' RETALIATION?

i. The Company

Lost wages \_\_\_\_\_

Other compensatory damages \_\_\_\_\_

**TOTAL** \_\_\_\_\_

ii. John Saldarelli

Lost wages \_\_\_\_\_

Other compensatory damages \_\_\_\_\_

**TOTAL** \_\_\_\_\_

iii. Henry Gerard

Lost wages \_\_\_\_\_

Other compensatory damages \_\_\_\_\_

**TOTAL** \_\_\_\_\_

**Please sign and date this form and tell the marshal you have reached a verdict.**



**FOREPERSON**

**Date:**